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FILED
AUG 26 2010
U.S. DISTRICT COURT
BAY CITY, MICHIGAN

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN

UNITED STATES OF AMERICA,

Plaintiff,

v.

THE WILDLIFE GALLERY, INC.,

Defendant.

_______________________________/

Criminal No. 10-20484
Hon. THOMAS L. LUDINGTON
Mag. Judge CHARLES E. BINDER

Offense(s): 16 U.S.C. §1538(c), (e) and (g)

Statutory Penalties: probation for 5 years, fine of $200,000, restitution, forfeiture of property, administrative suspension or cancellation of federal permits

RULE 11 PLEA AGREEMENT

Pursuant to Rule 11 of the Federal Rules of Criminal Procedure, defendant and the government agree as follows:

1. GUILTY PLEA

A. Count of Conviction

Defendant will enter a plea of guilty to the information, which charges defendant with knowingly importing, exporting, and possessing dead animals listed in the Convention on International Trade in Endangered Species of Wild Fauna or Flora, soliciting and causing such importation and exportation, and failing to file required Declarations for Importation or Exportation of Fish or Wildlife, as part of the defendant's taxidermy business.

B. Elements of Offense

The elements of the offenses charged in the information are (1) defendant knowingly possessed, imported, or exported, or solicited or caused the importation or exportation of, animals listed in the Convention on International Trade in Endangered Species of Wild Fauna or Flora, as part of its commercial activity, and (2) defendant failed to file the required Declaration for Importation or Exportation of Fish or Wildlife with the U.S. Fish and Wildlife Service deemed necessary by the Secretary of the Interior for the enforcement of the Endangered Species Act.

C. Factual Basis for Guilty Plea

The parties agree that the following facts are true, and are a sufficient basis for defendant's guilty plea: At all times relevant to the information, The Wildlife Gallery, Inc., was a provider of taxidermy services through a variety of business outlets located in the Eastern District of Michigan, and elsewhere. As part of its commercial activities, agents of The Wildlife Gallery, Inc., knowingly received, possessed, and sent international shipments containing all or parts of dead animals listed in the Convention on International Trade in Endangered Species of Wild Fauna or Flora, commonly referred to as CITES. On multiple occasions during the relevant time period, when engaged in such importations or exportations, defendant's agents failed to file declarations with the U.S. Fish and Wildlife Service deemed necessary by the Secretary of the Interior for the enforcement of the Endangered Species Act, that is form 3-177s, entitled Declaration for Importation or Exportation of Fish or Wildlife.

D. Additional Stipulations of the Parties

1. The Wildlife Gallery, Inc., is guilty of the conduct described in the information.

2. Bradley J. Eldred, president of The Wildlife Gallery, Inc., will be placed on pretrial diversion in the Eastern District of Michigan at or about the time that the corporation enters its plea of guilty and is sentenced. If Mr. Eldred successfully completes pretrial diversion, and the corporation fully complies with the terms of this agreement and resulting sentence, Mr. Eldred will not be prosecuted for any offenses included within, or related to, the corporation's guilty plea. If the time needed to sentence the corporation creates a disparity between the term of probation being served by the corporation and the pretrial diversion term served by Mr. Eldred, certification that the pretrial diversion agreement has been completed will be suspended until the corporation has fully completed the terms of its sentence.

3. Had the defendant been an individual, the defendant's guideline score would have been computed under USSG § 2Q2.1, and would have included assessments for specific offense characteristics found in USSG § 2Q2.1(b)(1), and (b)(3)(A) or (B). Because the defendant is a corporation, the applicable federal sentencing guidelines are found in Chapter 8 of the federal sentencing guidelines manual.

4. The stipulated restitution and fine shall not be tax deductible in any way, nor shall the restitution or fine obligation be dischargeable in bankruptcy.

2. SENTENCING GUIDELINES

There are no sentencing guideline disputes. The parties' stipulations regarding the federal sentencing guidelines are contained in this Rule 11 plea agreement. Neither party may take a position concerning the applicable guidelines that is different from that reflected in this agreement. A violation of this condition shall entitle the non-breaching party to withdraw from this agreement.

3. SENTENCE

The court will impose a sentence pursuant to 18 U.S.C. §3553 and §3572, and in doing so must consider the sentencing guidelines found in USSG Chapter 8.

A. **Probation**

The parties agree that an appropriate disposition of the case consists of a term of organizational probation for a period of one (1) year pursuant to USSG §§8B1.1(a)(2), 8D1.1 and 8D1.2(a)(2). The terms of probation shall include:

(1) The Wildlife Gallery, Inc., agrees that it shall not commit any future nor additional violations of federal, state, or local wildlife laws, or implementing regulations. To ensure its compliance with this commitment, The Wildlife Gallery, Inc., shall maintain, and if necessary improve, its compliance program in accordance with the directives of its probation officer.

(2) The Wildlife Gallery, Inc., shall comply with all monetary obligations imposed by this agreement.

B. **Special Assessment(s)**

Defendant will pay a special assessment of **$125,** and must provide the government with a receipt for the payment before sentence is imposed. USSG §8E1.1, comment. (n.2(B)).

C. **Fine**

The court shall impose a fine of **$10,000,to be credited to the Lacey Act reward account**, plus restitution as stated in this agreement.

D. Restitution

The court shall order the defendant to pay restitution to the U.S. Fish and Wildlife Service previously evaded import/export fees in the amount of **$910** as a condition of probation.

4. FORFEITURE

In exchange for the promises and commitments made by the defendant and Mr. Eldred in their respective agreements with the Eastern District of Michigan, the U. S. Attorney's Office waives its right to seek civil and criminal forfeiture in this matter.

5. OTHER CHARGES

If the Court accepts this agreement, the U.S. Attorney's Office for the Eastern District of Michigan will not bring additional federal criminal charges, including various felonies, against the defendant, nor the defendant's past or present officers, directors, shareholders, agents or employees, based on any of the offense conduct known to the U.S. Attorney's Office at this time to have been committed by the defendant, its past or present officers, directors, shareholders, agents or employees, in connection with the conduct charged in the information.

6. STATEMENT OF CORPORATE AUTHORITY

As agent for and president of The Wildlife Gallery, Inc., Bradley J. Eldred certifies that he is the highest ranking officer of the corporation and that he is authorized to enter into this plea agreement, and enter a guilty plea to the information, on behalf of The Wildlife Gallery, Inc. On behalf of the corporation, Mr. Eldred states that the corporation is satisfied with the advice provided to the corporation by its retained counsel, Michael J. Hackett. Mr. Elred further certifies that he is also personally represented by Mr. Hackett, and submits that the negotiated disposition of the case regarding him, and the case against the corporation, is advantageous to both the defendant corporation and Mr. Eldred.

7. EACH PARTY'S RIGHT TO WITHDRAW FROM AGREEMENT

The government may withdraw from this agreement if the court rejects or modifies the terms of this plea agreement without the consent of the parties, if Bradley J. Eldred violates the terms of his pretrial diversion agreement with the government, or if the defendant breaches its obligations under this plea agreement and resulting sentence. If the government withdraws from this plea agreement, the pretrial diversion agreement with Bradley J. Eldred will also be terminated, and the prosecution of Mr. Eldred will be resumed.

The defendant may withdraw from this agreement, and may withdraw its guilty plea, if the court decides to reject or modify the terms of this plea agreement without the consent of the parties, or to impose a sentence higher than the maximum allowed under the agreement between the parties. These are the only reasons for which the defendant may withdraw from this agreement. The court shall advise the defendant that if it does not withdraw its guilty plea under this circumstance, the court may impose a sentence greater than the maximum allowed by the agreement between the parties.

8. APPEAL WAIVER

If the sentence imposed does not exceed the maximum allowed by this agreement, defendant waives the right to appeal or collaterally attack its conviction or sentence on any grounds. If the sentence imposed is consistent with the terms of this agreement, the government agrees not to appeal the sentence, but retains its right to appeal any sentence inconsistent with the terms of this agreement.

9. CONSEQUENCES OF WITHDRAWAL OF GUILTY PLEA OR VACATION OF CONVICTION

If defendant is allowed to withdraw its guilty plea, or if any conviction entered pursuant to this agreement is vacated at the request of any party, any charges dismissed pursuant to this agreement and additional charges which relate directly or indirectly to the conduct underlying the guilty plea, may be filed against defendant and its agents within six months after the order vacating defendant's conviction or allowing it to withdraw its guilty plea becomes final. Defendant waives the right to challenge the additional charges on the ground that they were not filed in a timely manner, including any claim that they were filed after the limitations period expired.

10. PARTIES TO PLEA AGREEMENT

This agreement does not bind any government agency except the United States Attorney's Office for the Eastern District of Michigan.

11. SCOPE OF PLEA AGREEMENT

This agreement, which includes all documents that it explicitly references, is the complete agreement between the parties. Except as provided in the next paragraph, this agreement supersedes all other promises, representations, understandings and agreements between the parties concerning the subject matter of this plea agreement that were made at any time before the guilty plea is entered in court. Thus, no oral or written promises made by the government to defendant or to the attorney for the defendant at any time before defendant pleads guilty are binding except to the extent they have been explicitly incorporated into this agreement.

However, unless expressly stated herein, this agreement does not supersede or abrogate the terms of any cooperation agreement between the parties, and each party retains whatever obligations and protections that exist under such cooperation agreement. Similarly, unless expressly stated herein, this agreement does not supersede or abrogate the terms of any proffer letter (often referred to as a "Kastigar letter"), pursuant to which defendant agreed to provide information to the government to assist the government in determining how to resolve the matter, but which also provided defendant certain protections in the form of agreed upon restrictions on the government's ability to use the information provided. Unless expressly stated herein, the terms and conditions of any such proffer letter are not abrogated by this plea agreement, and remain operative and binding on the parties according to the terms of that proffer letter.

Except as otherwise provided above, this agreement does not prevent any civil or administrative actions against defendant by the United States or any other party, including the administrative suspension or cancellation of federal permits.

12. ACCEPTANCE OF AGREEMENT BY DEFENDANT

This plea offer expires unless it has been received, fully signed, in the Office of the United States Attorney by **5:00 P.M. on August 18, 2010.** The government reserves the right to modify or revoke this offer at any time before defendant pleads guilty.

BARBARA COLBY TANASE
Assistant U.S. Attorney
Chief, Branch Offices

BARBARA L. McQUADE
United States Attorney

Janet Parker P34931
Assistant U.S. Attorney

By signing below, defendant acknowledges its corporate officer has read this entire plea agreement, understands it, and agrees to its terms on behalf of the corporation. Defendant also acknowledges being satisfied with its defense attorney's advice and representation. Defendant acknowledges that it has had a full and complete opportunity to confer with its counsel before authorizing its representative corporate officer to sign this agreement.

Michael Hackett
Attorney for Defendant

Bradley J. Eldred, authorized corporate officer for defendant, The Wildlife Gallery, Inc.

Date: August 17, 2010